

MINUTES OF REGULAR MEETING  
SUGAR CITY COUNCIL  
THURSDAY, APRIL 9, 2009

Presiding: Council President Harold Harris  
Meeting Convened at 6:30 p.m.  
Prayer: Harold Harris  
Pledge of Allegiance

Present: Sharon L. Bell, Clerk; Marcie A. Smith, Treasurer; Councilmembers Harold Harris, Bruce King, Brad Orme and Lamont Merrill; Brian Hawkes and Steve Hawkes, Planning & Zoning; Sharee Palmer; and Jan Gallup. Mayor Dalling was excused. In his absence, Council President Harold Harris conducted the public hearing.

**PUBLIC HEARING (proposed Comprehensive Plan Land Use and Transportation Maps):**  
Council President Harold Harris welcomed everyone and brought the public hearing to order. He presented a brief review of the procedure for the public hearing. Councilmember King provided a short presentation on the proposed comprehensive plan land use and transportation maps, which were prepared by P&Z and modified slightly by the council. The maps were accepted for public hearing. City Clerk Sharon Bell reported there was no prior written testimony submitted. With the sign-up sheet of the public hearing in hand, Council President Harris called first for those in favor of approving the proposed land use and transportation maps. No one testified.

Council President Harris then called for those neutral toward the maps to testify. Comments were made as follows:

**JAN GALLUP**, 309 South Austin. She is neutral on the land use map and had no comments on it. But she has a concern about the round-a-bout on the transportation map. She feels the developer is responsible to request this type of intersection. She doesn't feel it should be part of the city's transportation map. She encouraged whoever is handling the Web site to place items for public hearing on the site so people do not have to come to city hall for copies. She suggested a category such as "Pending Public Hearings."

Council President Harris called for those against the proposal to testify. Comments were made as follows:

**SHAREE PALMER**, 1087 East Moody Road. Sharee said she has learned that when you testify mostly in behalf of a proposal, the things to which you object seem to get lost. So if she has any issues with a proposal, she will testify against it. She has one issue about the land use map. She feels that the North Fork Teton River that runs through the city and city impact area should be designated open space. She also still has issues with the transportation map. She feels routes in the city designated as minor collectors should be changed to major collectors. She didn't notice

at the last public hearing that a major collector was always yellow, so she was thinking everything was designated as a minor collector that she thought were major collectors. She said it is her understanding that a final plat has not been approved for Toscano, and she doesn't feel that streets should be on the map if there is not a final plat.

6:45 p.m. The public hearing ended, and the council convened its regular meeting.

Present: Sharon L. Bell, Clerk; Marcie A. Smith, Treasurer; Councilmembers Harold Harris, Bruce King, Brad Orme and Lamont Merrill; Brian Hawkes and Jesse Brown, Planning & Zoning; Sharee Palmer; Jan Gallup; and Randy Johnson. In the mayor's absence, Council President Harold Harris conducted the meeting.

The Mayor asked if there were any corrections to the minutes of the regular meeting held on March 26, 2009. Each Councilmember had a copy of said minutes prior to the meeting. It was moved by Councilmember Orme and seconded by Councilmember King to accept said minutes, with two small corrections; motion carried.

Marcie presented the March reconciliation reports for the General Fund. It was moved by Councilmember King and seconded by Councilmember Orme to accept the March reconciliation reports for the General fund; motion carried. Marcie presented the March reconciliation reports for the Utility Fund. It was moved by Councilmember Orme and seconded by Councilmember Merrill to accept the March reconciliation reports for the Utility Fund; motion carried.

Marcie presented the current bills in the amount of \$74,372.45. It was moved by Councilmember King and seconded by Councilmember Orme to pay the current bills, with the exception of \$689 to The Development Company for the Business Park project sign (The Development Company said they will furnish the sign) and \$2,825 to Inland Potable Services, Inc. for tank inspection, together with all regular April bills that have not yet been received; motion carried.

**RESOLUTION NO. 2009-4 (Sale of Business Park Lots):** City Clerk Sharon Bell read Resolution No. 2009-4 authorizing the sale of real estate known as the Sugar City Business and Industrial Park property. It was moved by Councilmember Orme and seconded by Councilmember King to approve Resolution No. 2009-4. Thereupon, the Clerk called roll upon said motion.

Those voting aye: Councilmembers Harris, King, Orme and Merrill  
Those voting nay: None

Thereupon, Council President Harris declared the motion passed. A copy of said resolution is attached hereto marked "Attachment I."

**SET BUDGET PUBLIC HEARING DATE:** Marcie said the city needs to provide a budget public hearing date to the county clerk before April 30 and suggested the date be Thursday, August 27 at 6:30 p.m. **MOTION:** It was moved by Councilmember Orme and seconded by

Councilmember Merrill to set the budget public hearing for Thursday, August 27, 2009, at 6:30 p.m.; motion carried.

**PLANNING & ZONING REPORT:** P&Z Chairman Brian Hawkes addressed the council.

**Wind turbine information:** Brian reported that Steven Turcotte gave an excellent presentation on wind energy at P&Z meeting last week. P&Z is gathering information on windmills for a possible windmill ordinance.

**Updates to Titles 9 and 10:** Brian said P&Z is working on changes to titles 9 and 10. At the recommendation of Attorney Forsberg, their plan is not to adopt the model ordinances offered to municipalities by the Association of Idaho Cities but to go through these ordinances to see what, if anything, is lacking in our own revised titles. He said this is a work in progress.

**Progress on the zoning map:** Brian said P&Z is making progress on the zoning map. They are considering downtown commercial zoning for the property along Center Street. They would like to set up a city meeting before the map goes to public hearing. The meeting could be advertised in the monthly newsletter.

**Anti-Pornography Conference:** Brian reported that he was approached by Craig Cobia, president of Citizens for Decency, who indicated they are putting on an anti-pornography conference on Saturday, May 9, in the Rexburg Tabernacle. Everyone is invited.

**RANDY JOHNSON (FORSGREN ASSOCIATES) – WATER SYSTEM ANALYSIS:**

Randy Johnson presented a preliminary project summary and explained some terms: ERU = equivalent residential units for commercial components; ADD = average daily demand; and MDD = maximum daily demand. He explained the city does not have the water right or pump capacity to handle water needs for the three projected developments of Toscano, Old Farm Estates and Calaway Ranch. Historically, Sugar City has a 1.4% annual growth rate, but with the three projected developments if they all were to fill during the next 20 years, which is unlikely, the city would experience a 5% increase per year. Randy suggested the City Council hold a work meeting with him so councilmembers could go through the document and not have to guess on projections. P&Z Chair Brian Hawkes proposed that the council meet with P&Z during the commission's regular meeting on April 16 to get their input. **MOTION:** It was moved by Councilmember King and seconded by Councilmember Orme to set April 16 at 7 p.m. for a special meeting with the Planning and Zoning Commission on water study issues and recommendations from Forsgren Associates; motion carried. (On April 10, Mayor Dalling sent an e-mail to the council stating the meeting on the water analysis could be better served in the regular council meeting on April 23.)

**DISCUSSION OF INPUT FROM ABOVE PUBLIC HEARING ON MAPS**

**Comprehensive Plan Land Use Map:** Discussion was had. Councilmember King said that P&Z has heard concerns about open space along the river and has decided not to include it at this time. Toscano has included open space along the Teton River before. The matter has come up several times. Bruce said open space could be added along the river during the next iteration of the map, if deemed necessary. **MOTION:** It was moved by Councilmember King and seconded by Councilmember Merrill to approve the land use map as presented; Councilmember Orme voted nay; motion carried. Brad felt that showing open space along the river now was important.

**Comprehensive Plan Transportation Map:** Discussion was had on the round-a-bout. The council agreed that if the developer does not want to include it, he doesn't have to. The

proposed transportation map has been approved by the State Transportation Department.

**MOTION:** It was moved by Councilmember Orme and seconded by Councilmember Merrill to approve the Sugar City comprehensive plan transportation map; motion carried.

#### **DEPARTMENT REPORTS:**

##### **COUNCILMEMBER HARRIS:**

**Turnquist Building Permit:** Harold reported he wrote a letter to Silver Peaks, LLC (Clarence Gummow) regarding the residential building at 26 South Idaho. He stated that Janet Harris applied for and received a special use permit for a single-family residence in a commercial zone. Mr. Turnquist applied for a building permit for said single-family residence. Clarence Gummow has now taken over and Mr. Turnquist is no longer directly involved. Mr. Gummow advised the mayor that it was his intent that this structure become a single-family dwelling, but it has been advertised as multiple housing. The letter states that before the building is rented or sold, Mr. Gummow, by certified mail, would have to indicate that this building is to remain a single-family residence. A copy of the letter is to go to the owner or renter and to the city. The city will not issue an occupancy certificate until that certified letter is in the city's possession. Discussion was had of what our liability might be down the road if there is non-compliance with the building code. The foundation is not high enough to meet International Building Code. These deficiencies should have been caught during building inspections after the foundation was poured. Also, there should be a 2% grade away from the building for 10 feet. The council agreed to ask Mayor Dalling to obtain from Attorney Forsberg our responsibility in this matter and whether we should issue a letter of non-compliance with our building code. Harold said he will look at the inspection reports and help Sharon prepare a letter to the city attorney.

**COUNCILMEMBER ORME:** No report. Councilmember King reported that Renee Christensen of P&Z suggested that Young Women groups might be interested in helping with the city Easter egg hunt and breakfast.

##### **COUNCILMEMBER KING:**

**Possible Federal Stimulus Funds:** Bruce said LHTAC was assigned to distribute federal money for local roads. Instructions on the last application stated that proposed road projects involve major collectors. That didn't seem fair to small cities such as Sugar City, since generally it would make them ineligible for assistance. However, he learned that there are two assistance programs on the LHTAC Web site for which Sugar City would be eligible. LHTAC Administrator Lance Holmstrom said he would look forward to seeing an application from Sugar City this fall, which could represent an opportunity for the city. Bruce said he would talk to Randy Johnson about applying for assistance under these programs in behalf of the city.

8:50 p.m. Councilmember Orme was excused.

**COUNCILMEMBER MERRILL:** Lamont said he attended a local emergency planning committee (LEPC) meeting with Bruce Arnell. He would like the city to develop an emergency plan with a calling tree set up. If there was a major catastrophe in the city, what procedure do we take as city officials? Lamont will do preliminary work with Mr. Arnell and report back. Then the matter will be put on a future agenda.

#### **MAYOR'S BUSINESS:**

**Report on water right for development projects:** Harold reported on a meeting he

attended with the mayor today. We face trouble getting water to approved developments. The reason is that it is proving difficult to obtain secondary water rights. Stan Clark, a representative of the Eastern Idaho Water Rights Coalition, said the coalition is fighting Twin Falls surface water users, who protest every application for ground water upstream of them. Coalition representatives are conducting a study regarding the amount of water seeping into the aquifer and have asked Sugar City for \$1,000 to help fund the program. **MOTION:** It was moved by Councilmember King and seconded by Councilmember Merrill to authorize Mayor Dalling to negotiate with the three big developers of land within the city on helping with payment to the coalition in proportion to the size of their developments; motion carried.

**Report on grain silo demolition:** No estimate has been received from Edstrom Construction on proposed demolition of the grain silo. Harold feels the city should contact other demolition contractors.

**Report on 1000 East (7<sup>th</sup> West) bridge:** Harold reported that the city and county attorneys agree there is no law requiring that the city pay the match on the bridge. He believes that since the bridge was started without the city's involvement, we should not accept responsibility for paying the match.

Meeting adjourned at 9:25 p.m.

Signed: \_\_\_\_\_  
Glenn W. Dalling, Mayor

Attested: \_\_\_\_\_  
Sharon L. Bell, Clerk

**Resolution No. 2009-4**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SUGAR CITY, IDAHO, AUTHORIZING THE SALE OF REAL ESTATE KNOWN AS THE SUGAR CITY BUSINESS AND INDUSTRIAL PARK PROPERTY**

WHEREAS, the City of Sugar City has developed certain real estate described in Exhibit 1 hereto for the purpose of being a private business and industrial park; and

WHEREAS, the City has declared such property as surplus and not necessary for any public purpose; and

WHEREAS, the City is required to initially offer the property for sale at auction for such value as it may deem appropriate;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Sugar City, Idaho that the City hereby authorizes the Mayor and City Clerk to sell the below described real property at public auction on the following terms and conditions:

Date and Time of Auction: Thursday, April 23, 2009 at 6:00 p.m. Mountain Daylight Time

Where: Sugar City Hall, 10 East Main, Sugar City, Idaho

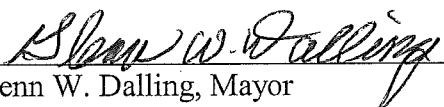
Minimum Acceptable Bid: \$1,646,568.00

Terms: \$20,000.00 deposit at time of auction. Balance in cash or cash equivalent payable at the time of closing.

Successful bidder must sign an agreement with the City requiring the successful bidder to use and operate the property in accordance with the Sugar City Business Park Protective Covenants and to make best efforts to create the number of jobs in the Business Park required by the enabling grant so that no payback of grant money is required of the City.

Closing will be at a title company of the City's choosing. The City will provide the successful bidder with a standard policy of title insurance. Closing to be complete within 30 days of the auction.

Passed by the City Council of Sugar City the 9<sup>th</sup> day of April, 2009 and approved by the Mayor on the 9<sup>th</sup> day of April, 2009.

  
Glenn W. Dalling, Mayor

ATTEST:

Sharon L. Bell  
Sharon L. Bell, City Clerk

## **Exhibit 1**

The Sugar City Business Park is part of the Southwest 1/4 of Section 4, Township 6 North, Range 40 East of the Boise Meridian, Madison County, Idaho being more particularly described as follows:

Commencing at the West ¼ Corner of Said Section 4, thence S89°55'54"W, 612.83 feet along the east/west centerline of Section 4 to a point on the easterly right of way line of U.S. Highway 20, thence N89°55'54"E, 682.25 feet along the east/west centerline of Section 4 to the True Point of Beginning;

Thence N89°55'54"E, 573.89 feet along the east/west centerline of Section 4 to a point on the westerly right of way line of the Eastern Idaho Railroad;

Thence S30°07'08"W, 1252.54 feet along the westerly right of way line of the Eastern Idaho to a point on the northerly right of way line of Center Street;

Thence N53°10'36"W, 177.97 along the northerly right of way line of Center Street to the westernmost corner common to remnant parcels 2 and 3;

Thence N53°10'36"W, 198.58 feet along the northerly right of way line of Center Street to an Idaho Transportation Department right of way monument;

Thence N46°45'29"W, 165.08 feet along the northerly right of way line of Center Street to an Idaho Transportation Department right of way monument;

Thence N46°45'29"W, 363.17 feet along the northerly right of way line of Center Street to an Idaho Transportation Department right of way monument;

Thence N53°10'36"W, 226.36 feet along the northerly right of way line of Center Street to an Idaho Transportation Department right of way monument on the easterly right of way line of U.S. Highway 20;

Thence N33°30'04"E, 388.37 feet along the easterly right of way line of U.S. Highway 20 to an Idaho Transportation Department right of way monument recovered on the southerly right of way line of County Road 3500 North (3rd North Street);

Thence N89°55'54"E, 706.14 feet along the southerly right of way line of County Road 3500 North (3rd North Street) to a point;

Thence N00°04'06"W, 36.0 feet to the True Point of Beginning, said parcels contain 20.69 acres more or less.